STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to repeal the following DCYF rule:

DISTRIBUTION OF CLIENT INCOME

This rule is being repealed because it is addressed in other existing or proposed new rules.

In the repeal of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This repealed rule is accessible on the DCYF website (http://www.dcyf.ri.gov) and the R.I. Secretary of State's website (http//www.sec.state.ri.us/ProposedRules/) and / or available in hard copy upon request (401-528-3685). Interested persons should submit data, views or written comments by April 26, 2011 to Susan Bowler, Acting Implementation Director for Policy and Programs, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

~~Distribution of Client Income~~

~~Rhode Island Department of Children, Youth and Families~~
~~Policy: 700.0130~~
~~Effective Date: September 29, 1986~~ ***~~Revised Date: Version~~*** ~~3~~

~~The Department of Children, Youth, and Families, in an effort to help the children in its care to become responsible and self-sufficient adults, encourages these children to learn appropriate money management skills under the guidance of its employees and child care providers. This enables the children to develop maturity and a sense of self-worth and to attain financial knowledge and skills which when applied will become an important step towards independence.~~

~~Some children placed in substitute care with the Department may already have, may obtain, or may be eligible for certain financial resources. Such resources may include, but are not limited to, earnings from employment, personal assets (trust funds, savings accounts, stocks, bonds, insurance policies, real estate, or other item of value), and/or income subsidies or other benefits such as Social Security (SSA), Supplemental Security Income (SSI), and Veteran's Administration (VA) benefits. When a child comes into a paid DCYF placement (excepting MHSCY Beneficiaries), the Department has the right to apply for the child's SSI, SSA, and VA benefits as representative payee. As such, the Department is obligated to adhere to all prescribed eligibility criteria for the child and must ensure that the money will be used for the child's benefit and in the child's best interest.~~

~~Control of a child's assets, except where indicated above, is a guardianship right of the parent(s) and is not transferred to the Department when it is awarded custody or when it accepts voluntary placement of a child. The Department gains this control only when parental rights are terminated and the Department is named guardian, when the parent(s) and/or child so authorize the Department, or when the Department, for just cause, petitions and is awarded guardianship of the child's estate or assets through Probate Court. The Department otherwise cannot make use of, force or coerce the child and/or parent(s) to sign over, or otherwise dispose of any assets, savings, or other income of the child even though this could affect the child's continued eligibility for certain benefits (SSI or IV-E). However, this in no way shall be interpreted to mean the Department is in any way limited or excluded from seeking parental support.~~

~~The following procedure is intended as a voluntary guideline to be used by the Department's employees, agents, and vendors to instill money management knowledge and skills and to ensure future financial security for children in its care. The Department through its employees, agents, and vendors shall make all reasonable efforts to encourage children in its care to conform to these standards where applicable. However, they are to be applied to a child's personal assets only through a signed Voluntary Savings Agreement (DCYF #107) or when the Department is otherwise legally vested with this responsibility.~~

~~Related Procedures~~

~~Income Subsidies (SSI, SSA, VA Benefits)~~
~~Earned Income (Income Resulting from Employment)~~
~~Assets (Other than Earnings, Personal Savings, and Income Subsidies)~~

~~Income Subsidies (SSI, SSA, VA Benefits)~~

~~Procedure from Policy 700.0130: Distribution of Client Income~~

~~A.When a child comes into paid DCYF foster/relative/institutional care (except MHSCY Beneficiaries), the Department can apply for, receive, and control that portion of any income subsidy deemed exclusively for the child.~~

~~B.The Department shall use such income for the child's benefit and in the child's best interest:~~

- ~~1.Management and Budgeting shall determine the child's placement cost for that period covered by the income subsidy and shall draw that amount from the income subsidy up to, but not in excess of, the actual cost;~~
- ~~2.Any excess shall be placed in a savings account for the child:~~
    - ~~a.SSI (and IV-E) eligibility standards require that a child's personal savings account not exceed $2,000, or there will be a loss of benefits to the child. All other income subsidies have no such savings limitation;~~
    - ~~b.If an SSI child's savings account approaches the $2,000 maximum, all or a portion thereof shall be used for the child's benefit and in the child's best interest in order to maintain eligibility. This is applied into the voluntary savings of a IV-E eligible child only with the child's consent; and~~
    - ~~c.Savings from any other income subsidy (SSA, VA) shall be allowed to accumulate with no limitations.~~

~~C.Savings accrued (SSI, SSA, and VA) in the child's name and maintained by the Department shall be returned by Management and Budgeting to the Social Security Administration or Veteran's Administration who shall then determine the proper payee for future benefits. Management and Budgeting shall release accrued savings upon written notification from the assigned primary service worker/supervisor that:~~

- ~~1.The child has been discharged from DCYF placement and returned to his/her parent/guardian;~~
- ~~2.The child has been legally adopted; and~~
- ~~3.The child has attained the age of eighteen (18) years or older and has been closed to DCYF services. The savings will not be released if the child is eighteen (18) years or older and still in placement with the Department.~~

~~D.In certain circumstances, savings accrued may be released by Management and Budgeting directly to the child or his/her parent/guardian upon verbal approval from the Social Security Administration or Veteran's Administration and with written notification from the primary service worker/supervisor. This shall only be done when there is an immediate financial need and any delay in the release of savings would cause a financial burden. This determination must be made jointly by the Social Security Administration/Veteran's Administration, primary service worker/supervisor and the Division of Management and Budgeting.~~

~~Earned Income (Income Resulting from Employment)~~

~~Procedure from Policy 700.0130: Distribution of Client Income~~

~~A.A child who earns ten (10) dollars per week or less shall keep all his/her earnings for personal use:~~

- ~~1.The child may voluntarily maintain a personal savings account but is not obligated to do so; and~~
- ~~2.The child's use of personal expense money and/or accrued savings from personal expense money should be monitored when possible by the child care provider to better ensure proper expenditures and to teach the child any needed money management skills.~~

~~B.If a child earns more than ten (10) dollars per week, the following guidelines shall apply:~~

- ~~1.The child can keep ten (10) dollars for personal use;~~
- ~~2.The child can also keep one-third (1/3) of the remaining earnings up to twenty (20) dollars, thirty (30) dollars total, for personal use:~~
  - ~~a.The child's use of personal expense money should be monitored when possible by the child care provider to better ensure proper expenditures and to teach the child any needed money management skills; and~~
  - ~~b.Any known misuse of personal expense money (ex. drugs or alcohol) must be immediately reported by the child care provider to the primary service worker/supervisor.~~
- ~~3.The child shall be encouraged to deposit the remaining two-thirds (2/3) of his/her earnings in a personal savings account:~~
  - ~~a.All reasonable efforts shall be made to encourage the child to sign a Voluntary Savings Agreement (DCYF #107) which allows the child care provider to hold the child's bankbook and to monitor the child's deposits and withdrawals;~~
  - ~~b.As part of the Voluntary Savings Agreement, the child is encouraged to have prior discussion with the child care provider and/or his/her worker/supervisor before making any withdrawals or major expenditures:~~
    - ~~(1) Withdrawals should only be for specified reasons and should be in the child's best interest;~~
    - ~~(2) The child shall be discouraged from making frequent, exorbitant, or inappropriate withdrawals and/or expenditures; and~~
    - ~~(3) By discouraging withdrawals, the worker and/or child care provider is helping the child to better plan his/her finances and to ensure some financial security for the child once he/she leaves DCYF care.~~
  - ~~c.If the child is receiving SSI or if the child is to continue to be eligible for IV-E reimbursement of placement costs, the total of all savings (if the child meets all other eligibility criteria) cannot exceed $2,000;~~
  - ~~d.Any savings accrued in the child's name and maintained by the child care provider shall follow the child if there is a change in placement site. Unless there is substantive evidence that this could be an endangerment to the child, his/her bankbook must be released to the child upon request:~~
    - ~~(1) A new Voluntary Savings Agreement (DCYF #107) should be signed for each change in placement site;~~
    - ~~(2) The child care provider shall immediately notify the worker/ supervisor if the child demands his/her bankbook against advice and/or requests cancellation of the Voluntary Savings Agreement;~~

~~(3) The worker/supervisor shall give written authorization to the child care provider for the release of the child's bankbook unless otherwise indicated; and~~

~~(4) If in the opinion of the worker/supervisor the release of the child's bankbook could constitute an endangerment to the child, he/she shall take appropriate legal action to protect the child and/or his/her assets.~~

~~Distribution of Client Income - Assets (Other then Earnings, Personal Savings, and Income Subsidies)~~

~~Procedure from Policy 700.0130: Distribution of Client Income~~

~~A.Assets are defined as trust funds, savings not under exclusive control of the child, stocks, bonds, insurance policies, real estate, or other items of value.~~

~~B.Control of a child's assets, except for income subsidies paid directly to the Department (SSI, SSA, VA), is a guardianship right of the parent(s) and is not transferred to the Department when it is awarded custody or accepts voluntary placement of a child:~~

~~1.The Department gains control of a child's assets only when:~~

~~a.parental rights are terminated and the Department is named guardian of the child;~~

~~b.the parent(s) and/or child authorize the Department to have such control; and~~

~~c.the Department for just cause petitions and is awarded guardianship of the child's estate or assets through Probate Court.~~

~~2.The Department otherwise cannot make use of, force the child and/or parent(s) to sign over, or otherwise dispose of any assets of the child even though this could affect the child's continued eligibility for certain benefits (specifically SSI and IV-E);~~

~~3~~.1. ~~Restrictions concerning the control of a child's assets in no way limits or excludes the Department from seeking parental support.~~